

Remarks

The applicant has carefully reviewed the Office action dated June 16, 2006, and the art applied therein to the claims. Claims 1-13 remain in this application, independent claims 1, 6, and 7 are amended. In view of the foregoing amendments and the following remarks, reconsideration and allowance of the application are respectfully requested.

The Rejections Under 35 U.S.C. § 103

In the Office action, claims 1-13 were rejected as being allegedly unpatentable over U.S. Patent No. 3,769,579 ("Harney") in view of U.S. Published Application 2004/0210922 A1 ("Peiffer"). As explained below, the applicant respectfully submits that amended independent claims 1, 6, and 7, and claims dependent therefrom, are allowable over the combination of Harney and Peiffer.

Claims 1 and 7

Independent claims 1 and 7 recite, *inter alia*, a portable transponder to transmit an identification signal, the portable transponder powered by a polling signal, and a fixed receiver or a means for transmitting the polling signal to the portable transponder.

To establish a *prima facie* case of obviousness, the prior art must teach or suggest each of the claim elements and must additionally provide a suggestion of, or an incentive for, the claimed combination of elements. See *In re Oetiker*, 24 USPQ. 2d 1443, 1446 (Fed. Cir. 1992); *Ex parte Clapp*, 227 USPQ. 972, 973 (Bd. Pat. App. 1985); *In re Royka*, 490 F.2d 981 (CCPA 1974) and M.P.E.P. § 2143. As explained below, the applicant respectfully submits that neither Harney nor Peiffer includes a portable transponder to transmit an identification signal, the portable transponder powered by a polling signal, and a fixed receiver or a means for transmitting the polling signal to the portable transponder. As a result, any combination of Harney or Peiffer necessarily fails to include a portable transponder to transmit an identification signal, the portable transponder powered by a polling signal, and a fixed receiver or a means for transmitting the polling signal to the portable transponder.

Harney is directed to a cable television monitoring system and describes a transponder for each television of a cable distribution system, which may be of the “set top” type. [Harney 1:42-52 and FIG.3]. The transponder (16) of Harney includes an RF receiver (T.R.F. receiver – item 20) that is tuned to the output channel of the converter (12). [Harney 2:39-59]. While the transponder (16) is interrogated by and sends replies to a distribution center via connectivity to a cable (10), Harney does not describe a portable transponder to transmit an identification signal, much less a portable transponder powered by a polling signal.

Peiffer is directed to methods and apparatus for identifying an audio signal and describes an audience measurement system having a time keeping means and that reads program-identifying labels from a digital audio signal frame. [Peiffer ¶0034]. The audience measurement system of Peiffer also includes a memory to store an association between the program-identifying label and the time, which may be communicated to a central data processing facility. [Peiffer ¶0034]. As a result, the audience measurement system of Peiffer is able to identify a broadcast. However, unlike Peiffer’s teaching of identifying a broadcast, claims 1 and 7 recite a portable transponder to transmit an identification signal, the portable transponder powered by a polling signal, and a fixed receiver or a means for transmitting the polling signal to the portable transponder.

As neither Harney nor Peiffer includes a portable transponder to transmit an identification signal, the portable transponder powered by a polling signal, and a fixed receiver or a means for transmitting the polling signal to the portable transponder, as recited in claims 1 and 7, it follows that neither Harney nor Peiffer, alone or in combination, can render claims 1 and 7 obvious. Dependent claims 2-5 depend from independent claim 1, and dependent claims 8-13 depend from independent claim 7 and are allowable for at least the reasons discussed above. Therefore, the applicant respectfully requests allowance of claims 1-5 and 7-13.

Claim 6

Amended independent claim 6 recites, *inter alia*, monitoring a designated region for the presence of a transponder, the transponder powered by a polling signal, and receiving an

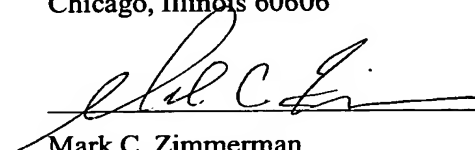
identification signal from the transponder, the transponder transmitting the identification signal in response to receiving the polling signal. For at least the reasons discussed above in view of independent claims 1 and 7, the applicant maintains that neither Harney nor Peiffer, alone or in combination, teaches or suggests monitoring a designated region for the presence of a transponder, the transponder powered by a polling signal, and receiving an identification signal from the transponder, the transponder transmitting the identification signal in response to receiving the polling signal. As a result, any combination of Harney or Peiffer fails to disclose the subject matter recited by claim 6. The applicant respectfully requests allowance of claim 6.

Conclusion

Reconsideration of the application and allowance thereof are respectfully requested. If there is any matter that the examiner would like to discuss, the examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,
Hanley, Flight & Zimmerman, LLC
20 North Wacker Drive
Suite 4220
Chicago, Illinois 60606

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Mark C. Zimmerman
Reg. No. 44,006
Attorney for Applicant
312.580.1020